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**MEMORANDUM**

TO: Howard K. Koh, M.D., MPH, Commissioner, and Members of the Public Health Council

THROUGH: Suzanne K. Condon, Assistant Commissioner  
Bureau of Environmental Health Assessment

FROM: Paul Hunter, Director  
Childhood Lead Poisoning Prevention Program

DATE: January 22, 2002

RE: Public Hearing on Proposed Amendments to 105 CMR  
460.000: Regulations for Lead Poisoning Prevention and Control

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**INTRODUCTION**

The purpose of this memorandum is to inform the Council of the Childhood Lead Poisoning Prevention Program's intent to proceed to public hearing on proposed amendments to 105 CMR 460.000: Regulations for Lead Poisoning Prevention and Control. The regulations implement the Massachusetts Lead Law, MGL ss. 189A-199B, which has two fundamental purposes. The first is to ensure that all Massachusetts children under six years of age are screened for lead poisoning, and if found to have a blood lead elevation, receive appropriate medical and environmental services. The second purpose is the preventive abatement of lead paint from the Massachusetts housing stock by requiring that all residences built before 1978 in which children

under six reside receive a lead inspection or risk assessment, and if lead hazards are found, are abated.

Three types of regulatory amendments are proposed. One type is comprised of amendments required by the US Department of Housing and Urban Development (HUD). These amendments modify the definition of dangerous levels of lead in paint, lower dust lead level clearance standards, and facilitate the process for lead inspectors to become risk assessors. The second type improves the inspection and abatement compliance process. These amendments would clarify the legal status of a lead inspection and risk assessment, and expand the conflict of interest prohibition for lead inspectors. The third type of amendment streamlines the regulations, principally by eliminating redundancies and modifying nomenclature.

## **DESCRIPTION OF PROPOSED REGULATIONS**

### **Amendments to Meet New Federal Standards and Requirements**

Under Title X, the omnibus federal lead legislation, the Environmental Protection Agency (EPA) was required to establish an array of lead-related standards and inspection and abatement requirements. Now that these standards and requirements are in place, the states must promulgate standards and requirements congruent with the federal ones as a condition for continued receipt of HUD funding.

Three amendments are proposed to meet the revised federal requirements. Very minor changes in the definition of a dangerous level of lead in paint would be made. More significant changes would be made to the dust lead levels which must be met for clearance following completion of residential lead abatement. Standards for window wells and sills would be reduced by half, to 400 and 250 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ) respectively. The new standards were derived from research on the correlation between children's blood lead levels and residential dust lead levels. The added protection for children's health that will result from the adoption of these new, more rigorous standards is an important advance in lead poisoning prevention efforts.

One of the principal changes in the federal requirements is a dramatic expansion of the circumstances in which a lead risk assessment is required. To prepare for this increased demand for risk assessments, regulatory changes are proposed which will facilitate the process by which lead inspectors become risk assessors. The requirement that a lead inspector must perform a total of 75 inspections and reinspections to become a risk assessor will no longer be a prerequisite for receiving risk assessment training.

### **Amendments to Improve the Inspection and Abatement Compliance Process**

One amendment presents and clarifies the legal status of a lead inspection and risk assessment. It confirms that the compliance process must begin with an inspection or risk assessment, but makes the point that having a lead inspection or risk assessment performed does not in itself trigger an obligation to achieve compliance. This clarification will help prevent misconception concerning the nature of these two procedures fundamental to Lead Law compliance and reduce the reluctance of some people to have a lead inspection performed.

As a protective measure, a proposed amendment will require another risk assessment reinspection any time any abatement or abatement-related work is performed after residents reoccupy a residence (in circumstances when reoccupancy occurs before the final compliance reinspection, e.g. before exterior work is completed). Another amendment expands the prohibition against conflicts of interest for lead inspectors to include subcontracted deleading work.

### **Streamlining of Regulations**

Several proposed amendments would streamline the regulations. In one case, explanatory information concerning the identification of structural defects is now included in training materials and can be deleted from the regulations. In another instance, streamlining will result from the replacement of specific terminology with generic. Finally, in two instances, notification procedures, which appear elsewhere in the regulations, are eliminated.

### **CONCLUSION**

The proposed regulations would significantly improve the lead inspection and compliance process. The role of a lead inspection and risk assessment in the process would be strengthened and clarified. Raising the standards for dust lead clearance levels for window sills and wells would be important new advances in abatement safety. Facilitation of the process whereby lead inspectors become risk assessors will make risk assessment services more readily available statewide in preparation for an anticipated major increase in demand. Finally, we would meet the criteria to ensure continued federal support for Massachusetts housing at a time when it is especially critical.